

Arndt, J
Hutchison, J
Sweet, J

On January 27, 2016, this Court comprised of The Honorable Ernst Arndt, The Honorable Cathleen Hutchison, and The Honorable William Sweet acting as a special court pursuant to 25 Del. C. § 5717(a)¹ convened a *trial de novo*² in reference to a Landlord/Tenant Summary Possession complaint filed by Delaware State Housing Authority (Plaintiff) against Paulette Smith (Defendant). For the following reasons, the Court enters judgment in favor of the **Defendant**.

Factual and Procedural Background

Plaintiff filed a Landlord/Tenant Summary Possession Complaint in Justice of the Peace Court 16 on November 6, 2015 seeking possession and court costs. Trial was held on December 9, 2015 and judgment was entered in favor of Plaintiff. Defendant filed a timely appeal of the Court's Order pursuant to 25 Del. C. § 5717(a). Trial was scheduled and held on January 27, 2016.

Evidence and Testimony

Plaintiff entered into evidence, without objection, a copy of the lease (Pltf Ex 1) and a video (Pltf Ex 2). Plaintiff seeks possession of the subsidized housing unit because of alleged criminal activity by Defendant and Defendant's minor child. Defendant was charged with Offensive Touching and Endangering the Welfare of a Child. The video depicts an altercation between Defendant's minor child and a non-resident child on the grounds and encouraged by Defendant. (Pltf Ex 2) This conduct violates the lease and warrants termination for criminal conduct which threatens the peaceful enjoyment of the public housing premises. (Pltf Ex 1 § 8(m)).

Discussion

Based on the evidence and testimony of the Parties, the Court is satisfied a Landlord/Tenant relationship exists between the Parties pursuant to 25 Del. C. § 5101(a)³. Plaintiff seeks possession of the rental unit and court costs. Termination of a rental agreement requires proper written notice be given. (Pltf Ex 1 § 15 (b) and 25 Del. C. § 5513) Plaintiff did not enter into evidence any written notice to Defendant

¹ 25 Del. C. § 5717(a) "*Nonjury trials*. — With regard to nonjury trials, a party aggrieved by the judgment rendered in such proceeding may request in writing, within 5 days after judgment, a trial de novo before a special court comprised of 3 justices of the peace other than the justice of the peace who presided at the trial, as appointed by the chief magistrate or a designee, which shall render final judgment, by majority vote, on the original complaint...."

² A new trial on the entire case — that is, on both questions of fact and issues of law — conducted as if there had been no trial in the first instance. Black's Law Dictionary, 6th Edition, West Publishing Co. (1990).

³ 25 Del. C. § 5101 (a) "This Code shall regulate and determine all legal rights, remedies and obligations of all parties and beneficiaries of any rental agreement of a rental unit within this State, wherever executed. Any rental agreement, whether written or oral, shall be unenforceable insofar as the agreement or any provision thereof conflicts with any provision of this Code, and is not expressly authorized herein. The unenforceability shall not affect other provisions of the agreement which can be given effect without the void provision."

terminating the lease. Plaintiff has failed to prove compliance with the lease and the Delaware Landlord/Tenant Code in terminating the lease. Plaintiff has failed to prove their case by a preponderance of the evidence.

FINDING

Find for Defendant.

SO ORDERED January 29, 2016


Ernst Arndt


Cathleen Hutchison


William Sweet

